

REMARKS

This is in response to the Office Action dated August 7, 2008. With this response, claims 1, 3, 5-8, 12, 17, 26-27, 29 and 31 are amended; claim 10, 11, 28 and 30 are cancelled; and all pending claims 1-9, 12-27, 29 and 31 are presented for reconsideration and favorable action.

In the Office Action, the restriction Requirement was noted in connection with claims 30-31. Based upon the amendments as set forth herein, it is believed that those claims property remain in the case.

In the Office Action, the Examiner requested a legible copy of the Oath. A new copy of the Combined Declaration and Power of Attorney is submitted herewith and it is believed that the objection may be withdrawn.

A number of claims were rejected under 35 U.S.C. § 112. Those claims have been amended and it is believed that the rejection may be withdrawn.

Claim 29 was rejected under 35 U.S.C. § 101. Based upon the amendment, it is believed that the rejection may be withdrawn.

In the Office Action, the claims were rejected under 35 U.S.C. § 102 based upon Miles (US 6,283,034) or Brosow (US 6,760,992). Additionally, claim 26 was rejected based upon a combination of these two references. Based on the above amendment and following remarks, it is believed that the present application is in condition for allowance.

With this response, the claims have been amended to emphasize the location of the two apparatuses, i.e., one apparatus is located within the cartridge and the other apparatus is located within the firearm. Further, with this response, the claims have been amended to clarify that the interface (12) within the cartridge is adapted for a "bi-directional" communication. This is illustrated for example, in Figure 2 by the bi-directional elements between elements 2 and 12.

Claim 1 has been amended to include the elements of dependent claims 10 and 11. Further, the amendments to claim 1 emphasize that the cartridge itself stores data (identification and password data).

Turning now to the cited references, US 6,283,034 (Miles) discloses a "remotely-armed ammunition 10 (see Fig. 1) for use with a conventional firearm" (see claim 1). Further, US

6,283,034 discloses in claim 1 a "means for remotely controlling operation of the primer load which includes a receiver for receiving an arming signal when the receiver is within a predetermined range of a transmitter which is separate from the cartridge and the firearms."

In other words, US 6,283,034 (Miles) merely discloses a uni-directional "communication" from the transmitter to the ammunition. Further, support for the uni-directional "communication" may be found at column 2, lines 38-41 and 60 to 64.

Moreover, since amended claim 1 further specifies that the particular cartridge can only be used with a firearm which comprises an apparatus for receiving and transmitting data, it is clear that the cartridge of the present invention is not intended for a use with any conventional firearm, as suggested in US 6,283,034 (Miles).

Thus, since US 6,283,034 (Miles) apparently does not disclose such method steps or means adapted for conducting such method steps, Applicant believes that amended claim 1 is not only novel but also based on an inventive step over US 6,283,034 (Miles).

The Office Action stated that former claim 26 lacks inventive step over US 6,760,992 (Brosow) combined with US 6,283,034 (Miles).

However, as previously acknowledged, the first embodiment of US 6,760,992 (Brosow) is constructed to release a standard round by a firing pin (see Office Action page 10), which is quite different from the present invention. Moreover, the Office Action also acknowledged that the second embodiment, which refers to electrically initiated ammunition round, does not disclose an apparatus arranged within the cartridge which includes (i) a control means and (ii) a security means, as required by former claim 26.

The Office Action alleged that US 6,283,034 (Miles) discloses the missing control means and security means within the cartridge.

However, since amended claim 26 has been amended similar as claim 1, the above discussed differences between claim 1 and US 6,283,034 (Miles) is also valid for claim 26, i.e., "Miles" provides no teaching or suggestion for the newly added features which ensure a bi-directional communication with higher security. Accordingly, Applicant believes that all independent claims are novel and inventive over US 6,760,992 (Brosow) combined with

US 6,283,034 (Miles).

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment, including the Office Action's characterizations of the art, does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment or cancellation of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment or cancellation. Applicant reserves the right to prosecute the rejection claims in further prosecution of this or related applications.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

WESTMAN, CHAMPLIN & KELLY, P.A.

By: /Judson K. Champlin/
Judson K. Champlin, Reg. No. 34,797
900 Second Avenue South, Suite 1400
Minneapolis, Minnesota 55402-3319
Phone: (612) 334-3222 Fax: (612) 334-3312

JKC:rev